MT LEGISLATIVE HISTORY

Chapter_____ 1977

Bill H_____ SJR 28 Original bill & hist. ✓C

H. Committee on Judiciary S. Committee on Judiciary

Hearing Date(s)			Hearing Date(s)		
	MAR 4	✓C		FEB 9	✓C
	MAR 8	✓C		FEB 14	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C		_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report_____

JUDICIARY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 339	Providing that in prosecution for rape failure to make a timely complaint does not raise any presumption of credibility of the victim.	2-19	Regan	March 7 Monday	concurred in	3-7
SJR 28	Requesting a study of the sentencing provisions of the Montana Criminal Code of 1973.	2-21	Thomas	March 4th	table concurred in	3-8 4/8
SJR 19	Requesting a study of legislation to compensate victims of crime.	2-22	Lockrem	March 4th	not concurred rereferred table concurred in	3/8 3/10 3/10 4/14
SB 37	Requiring administrative rules to conform with legislative intent.	2-22	Turnage	March 7 Monday	concurred in amended	3/25
SB 356	Providing a statute of limitations for legal malpractice actions.	2-22	Turnage	March 7 Monday	concurred in	3-7
SB 395	Providing that a highway patrolman receive regular duty pay while responding to a subpoena in connection with his duties.	2-22	Mehrens	March 7	taken by chief clerk office March 4	

JUDICIARY COMMITTEE
March 4, 1977

The regularly scheduled meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. March 4, 1977, in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representatives Kennerly and Colburn.

Scheduled for hearing were Senate Bills 30, 34, 405, 414, 415 and Senate Joint Resolutions 19 and 28. Senate Bill 419 was cancelled at the request of the sponsor Senator Towe, and will be heard at a later date.

THE HEARING OPENED ON SENATE JOINT RESOLUTION 19.

SENATOR LOCKREM, DISTRICT #32:
This bill requests the legislative committee on proorities to assign to an appropriate standing committee a study of legislation to compensate victims of crime and to have the committee report to the 46th legislature. It should not be used to justify killing 357.

PROPONENT, TOM HONZEL, COUNTY ATTORNEYS ASSOCIATION:
We still support that bill but ask that you do give consideration for Senator Lockrems bill.

REPRESENTATIVE CONROY:
What was the reason for eliminating the portion dealing with the Indians?

SENATOR LOCKREM:
For some reason they felt it was discrimination, and the question of jurisdiction should be encompassed.

There were no further questions and no opponents, the hearing closed on Senate Joint Resolution 19.

THE HEARING OPENED ON SENATE JOINT RESOLUTION #28:

SENATOR THOMAS, DISTRICT #20:
SJR 28 is asking for an interim study on uniform sentencing procedure. This was asked for by Chief Justice Hatfield in his state of the law message.

JUDGE HATFIELD:
Under the criminal justice plan we will be doing the same things and therefore I am in favor of your doing this. The information you are asking for here will be developed.

TOM DOWLING, SHERIFFS AND PEACE OFFICERS:
We support this bill.

TOM HONZEL, COUNTY ATTORNEYS:
We support this resolution. You can readily see there are problems in the present structure of the justice system of the state of

Montana. I think it is proper to do a study of this. I think most of you are aware that a judge can defer sentencing in a case but in some places they are using deferred prosecution. There are some things that are going on already with or without legislative sanction.

There were no other proponents and no opponents.

SENATOR THOMAS:
We think this is a very important study and I think the state of Montana would benefit.

THE HEARING CLOSED ON SENATE JOINT RESOLUTION #28:

THE HEARING OPENED ON SENATE BILL #405:

SENATOR MEHRENS, DISTRICT #45:
This bill was introduced by request of the state fire marshall.

STATE FIRE MARSHALL:
It was at our request that the Senator introduced the bill. It keeps track of the people in the community who start fires. He suggested an amendment on line 11, page 1, to strike "state fire marshall" and insert "arson".

There were no other proponents and no opponents, and no questions, the hearing closed on Senate Bill #405.

MR. A. J. MURRAY:
I am sorry to be late, but I would like to state my opposition to SJR #19. I have a report in the House Appropriations Committee, "The Victim & Restitution Study".

REPRESENTATIVE CONROY:
If we amended the language back in, would that change your opinion.

MR. MURRAY:
The study included the indian population. He went on to explain the study and the reasoning involved, etc.

CHAIRMAN SCULLY:
I would like to tell you that I talked with Senator Roberts and he said that Senate Bills 414 and 415 are self-explanatory and we, the committee, can do whatever we wish.

THE HEARING OPENED ON SENATE BILL #30:

SENATOR HAZELBAKER, DISTRICT #41:
This is a recod bill and I will let the staff explain it to you.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

LL SJR 28 Date March 4, 1977

SOR Senator Thomas

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Jane Williams	Helena	League of Women Voters	✓	
Tom Hoyt	Helena	County Attorneys	✓	
Tom Dowling	"	Sheriff's & Peace Officers	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

JUDICIARY COMMITTEE
EXECUTIVE SESSION

March 8, 1977

The executive session of the House Judiciary Committee was called to order by Chairman Scully following the regular meeting of the committee, at 8:40 a.m. in room 436 of the Capitol Building, Helena. All members were present with the exception of Representative Colburn, who was absent.

The chairman appointed the following representatives to carry the respective senate bills on the House floor.

SB 20	Representative Scully
30	Representative Scully
70	Representative Ramirez
92	Representative Eudaily
339	Representative Lory
356	Representative Scully
398	Representative Keyser
405	Representative McLane
414	Representative Kennerly
415	Representative Baeth

Action was taken on the following Senate Bills.

SENATE BILL #415:
REPRESENTATIVE BAETH moved to amend line 16, page 1, as follows:

1. Amend page 1, section 1, line 16.
Following: "from"
Insert: "accumulated"

The motion to amend carried with the vote unanimous.
REPRESENTATIVE DUSSAULT moved to "be concurred in as amended".
The motion carried with the vote unanimous.

SENATE JOINT RESOLUTION #19:
REPRESENTATIVE DUSSAULT moved "be not concurred in".
The motion carried with the following representatives voting "no".
Representatives Teague, Ramirez, Scully, Day and McLane.

SENATE JOINT RESOLUTION #28:
REPRESENTATIVE LORY moved to "table".
The motion carried with the vote unanimous.

The meeting adjourned at 9:05 a.m.

JOHN P. SCULLY, CHAIRMAN

Mary Ellen Connelly

Mary Ellen Connelly, Secretary

FORTY-FIFTH LEGISLATIVE SESSION

1977

COMMITTEE ON JUDICIARY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SJR 9	1-19-77	2-1-77	2-1-77		2-2-77				
SJR 16	1-25-77	2-5-77	2-18-77		2-18-77				
SJR 19	1-24-77	2-15-77	2-16-77			2-16-77			
SJR 28	2-1-77	2-9-77	2-14-77	2-14-77					
SJR 30	2-5-77	2-15-77	2-16-77		2-16-77				

CONSIDERATION OF SENATE JOINT RESOLUTION 28:

At this time, Senator Roberts, who had recently entered the meeting, assumed his duty as Vice-Chairman and placed SJR 28 before the committee for their consideration.

Senator Thomas explained this resolution and asked that a study be made so Montana can have unified sentencing.

Rep. Polly Holmes was the only proponent of the resolution to testify. She said that she believes this study should be made and asked that they not be given several studies of the same type.

There being no more proponents or opponents of SJR 28 present, the hearing of this resolution was closed.

CONSIDERATION OF SENATE BILL 318:

Senator Towe, sponsor of this bill, explained the bill to the committee and the results expected to be obtained therefrom.

Judge Shanstrom, appearing as a proponent of this bill, said that he and the other district judges were in support of S.B. 318. He said that the major complaint they hear from their constituents is that prisoners are paroled too soon.

The next proponent to testify was Lt. Charles Hensley of the Billings Police Department. He told the committee that a professional criminal is a model prisoner and that most law enforcement officers feel that prisoners get out much too soon.

Curt Chisholm from the Department of Institutions said that he neither appeared in support or opposition to S.B. 318, but offered to answer questions concerning his department's views.

The opponents were then allowed to testify. Jack Lynch said he was opposed to S.B. 318 and read a letter from the Chairman of the Board of Pardons who said that this bill was incurable. He then said that the parole board is not responsible for the quandry they are now in because they only work under laws imposed upon them by the legislature. He testified that he thinks the "good time" award is too much and that he doesn't believe the prison should be the ones to say when a prisoner is to be paroled.

A partial opponent to S.B. 318 was R. E. Indreland of the Bureau of Indian Affairs at the prison. (At this time, Senator Turnage entered committee and assumed his duties as Chairman.) Mr. Indreland told the committee that this bill would force the state to build more accommodations at the prison and will cause chaos because it puts sentencing at the discretion of district judges.

The next opponent was Gary Broyles, an investigator for the Board of Pardons, who asked that the "good time" allowance be not done away with. Senator Turnage asked him what the maximum total of "good time" days is. He said that it was 25 days a month.

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-9-77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman	✓		
MURRAY, William	✓		
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓		
TOWE, Tom	✓		
WARDEN, Margaret			✓

HR 28

Judiciary

SB 318 - 369 VISITOR'S REGISTER 2/9/77

NAME	REPRESENTING	Check One: Support	Check One: Oppo
Robt L. Peterson	Self SB 369		X
[illegible]	[illegible]		X
John M. Miner	Self SB 369		X
[illegible]	League of Women Voters SB 318	✓	
Charles L. Hendley	Law Enforcement S.B. 318	✓	
Jack D. Hartstrom	Judges Assn. 318, 369, 28	✓	
Robert Chisholm ✓	[illegible] 318, 369		
[illegible]	" "		
Rep. [illegible]	Sheriff - Peace Officers		✓
Jack Ray Co.	Board of Realtors		
Ross Yoggan ✓	MO	318	3

(Please leave prepared statement with Secretary)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 14, 1977

The second meeting of the committee on the above date was called to order by Senator Turnage, Chairman, at 4:45 p.m. in Room 415 of the State Capitol Building. The purpose of this meeting was to take executive action on Senate bills.

EXECUTIVE SESSION

The following action was taken on Senate Bills:

343 - Senator Towe moved DO NOT PASS. Motion carried unanimousl

337 - Senator Roberts moved DO PASS. Motion withdrawn.
Senator Towe moved DO NOT PASS. Motion carried with Senator Regan voting "No".

338 - Senator Regan moved DO NOT PASS. Motion carried with Senator Roberts and Senator Towe voting "No".

356 - Senator Towe moved to amend (see attached amendments - Ex. #1). Senator Warden moved as amended DO PASS. The motion carried unanimously.

369 - Senator Regan moved DO NOT PASS. The motion carried with Senator Olson voting "No".

SJR 28 - Senator Roberts moved that SJR 28 BE ADOPTED. The motion carried unanimously.

210 - Senator Roberts moved DO NOT PASS with the explanation being that this bill is to be considered within the scope of SJR 28. The motion carried with Senator Towe voting "No".

278 - Senator Roberts move DO NOT PASS with the explanation being that this bill is to be considered within the scope of SJR 28. The motion carried with Senator Towe voting "No".

180 - Senator Regan moved DO NOT PASS. The motion carried with Senator Towe voting "No".

182 - Senator Towe moved that the attached amendments (Ex. #2) be adopted. The motion carried unanimously.
Senator Warden moved to amend page 4, section 6, follow line 9. The motion carried but was withdrawn by Senato Warden.
Senator Roberts moved that S.B. 182 as amended DO PASS. The motion carried with Senator Towe voting "No".

185 - Senator Regan moved DO NOT PASS. The motion carried wit

SENATE JOINT RESOLUTION NO. 27

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING AMENDMENT OF THE ACT AUTHORIZING THE FORT PECK PROJECT TO INCLUDE RECREATION AND CONSERVATION OF FISH AND WILDLIFE AS A PURPOSE.

WHEREAS, tourism and recreation are growing and increasingly important industries; and

WHEREAS, eastern Montana has considerable potential for increased tourist and recreation interests; and

WHEREAS, the Fort Peck Project has immediate potential for increased tourist and recreation use; and

WHEREAS, the act authorizing the completion, maintenance, and operation of the Fort Peck Project does not include recreation and conservation of fish and wildlife as a purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress is urged to amend P.L. 529, approved May 18, 1938, the act authorizing the Fort Peck Project to include recreation and conservation of fish and wildlife as a purpose.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent by the Secretary of State to Montana's Congressional Delegation.

Approved March 17, 1977.

SENATE JOINT RESOLUTION NO. 28

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF THE SENTENCING PROVISIONS OF THE MONTANA CRIMINAL CODE OF 1973 AND OF POSSIBLE ALTERNATIVE PROVISIONS WHICH WOULD PROVIDE FOR MORE UNIFORM SENTENCING OF CRIMINALS AND FOR MANDATORY SENTENCES FOR DANGEROUS CRIMINALS.

WHEREAS, the Montana Criminal Code of 1973 provides for maximum penalties and no minimum penalties, leaving wide discretion in each judge regarding the penalty to be imposed upon an individual; and

WHEREAS, individuals with similar backgrounds convicted of the same crime are given greatly varying sentences depending upon the county in which they are convicted; and

WHEREAS, guidelines are needed to make sentencing more uniform and, if necessary, to provide for mandatory sentencing of dangerous criminals for the protection of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Committee on Priorities is requested to appoint the appropriate standing committee to study the sentencing provisions of the Montana Criminal Code of 1973, to study sentencing alternatives which would provide for more uniform sentencing of criminals and for mandatory sentences for dangerous criminals, and to evaluate the alternatives and compare them with the sentencing provisions currently being used.

BE IT FURTHER RESOLVED, that the committee conducting the study prepare and present to the 46th Legislature a report analyzing the sentencing provisions of the Montana Criminal Code of 1973 and possible alternatives, together with recommendations and a draft of proposed legislation, if necessary, to carry out such recommendations.

Approved April 18, 1977.

SENATE JOINT RESOLUTION NO. 29

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING THAT AN INTERIM COMMITTEE OF THE LEGISLATURE STUDY THE TAXATION OF FOREST LANDS IN THE STATE OF MONTANA AND FULLY CONSIDER ALTERNATIVE SYSTEMS, INCLUDING A TIMBER YIELD TAX, AS A POSSIBLE REPLACEMENT FOR THE PRESENT AD VALOREM SYSTEM OF TAXING FOREST LANDS.

WHEREAS, the State of Montana does not possess or have available to it factual data upon which a reasonably accurate inventory of forest lands within the state may be compiled; and

WHEREAS, the absence of such data has caused the Department of Revenue considerable difficulty in the assessment and taxation of forest lands within the state; and

WHEREAS, alternatives to the present system of taxing forest lands in Montana have not been fully considered or studied; and

WHEREAS, the interests of the state, the woodlot owners, and the wood products industry require that either the present system of taxing forest lands be improved or that alternative systems be considered.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Committee on Priorities assign the appropriate standing committee to study the taxation of forest lands in Montana and thereafter provide a written report:

(1) explaining what should be done to improve the present system of taxing forest lands;

(2) explaining both the advantages and disadvantages of changing to a yield tax system, as envisioned by House Bill No. 83 introduced during the 45th Legislature; and